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Walter E. Spiegel  
Senior International Trade Counsel

NCR Corporation  
101 West Schantz Avenue, ECD-2  
Dayton, Ohio 45479-0001  
Telephone: 937/445-1273  
Facsimile: 937/445-1933  
E-mail: walter.spiegel@daytonoh.ncr.com

PLEASE NOTE NEW AREA CODE & FAX NO.

February 12, 1997

Ms. Nancy Crowe  
Regulatory Policy Division  
Bureau of Export Administration  
Department of Commerce  
14th Street and Pennsylvania Avenue, N.W.  
Room 2705  
Washington, D.C. 20230

Re: Comments To December 30, 1996 Federal Register Notice

Dear Ms. Crowe:

NCR Corporation ("NCR") respectfully submits the following comments in response to the Commerce Department's December 30, 1996 Federal Register Notice transferring jurisdiction over certain encryption items from the U.S. Munitions List to the Commerce Control List.

NCR is an information technology company with headquarters in Dayton, Ohio. NCR manufactures and markets such products as automatic teller machines and other equipment for the banking industry.

Prior to issuance of the December 30, 1996 interim regulations, automatic teller machines and other banking equipment were eligible for export under a General License pursuant to a Note to ECCN 5A002, which provided as follows:

**Note:** 5A002 does not control . . .

c. Cryptographic equipment specially designed, developed or modified for use in machines for banking or money transactions, such as automatic teller machines, self-service statement printers, point of sale terminals, or equipment for the encryption of interbanking transactions, and intended for use only in such applications (emphasis added).

The language in this note was virtually identical to language in Category XIII(b) of the U.S. Munitions List, which exempted from ITAR control cryptographic equipment as follows:

Specially designed, developed or modified for use in machines for banking or money transactions, and restricted to use only in such transactions. Machines for banking or money transactions include automatic teller machines, self-service statement printers, point of sale terminals or equipment for the encryption of interbanking transactions.

The interim regulations set forth more limited language than the previous Note. Specifically, the new Note to ECCN 5A002 states as follows:

**Note:** 5A002 does not control . . .

h. Cryptographic equipment specially designed and limited for use in machines for banking or money transactions, such as automatic teller machines, self-service statement printers or point of sale terminals.

As shown above, the interim regulations potentially limit the scope of the Note in two ways. First, the interim regulations would only exempt from EI control cryptographic equipment that is specially designed for use in machines for banking or money transactions. The previous Note (and the USML) also exempted cryptographic equipment that was specially developed or modified for use in machines for banking or money transactions.

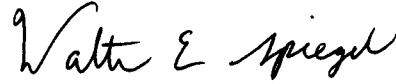
Second, the previous Note (and the USML) exempted "equipment for the encryption of interbanking transactions." The interim regulations omit any reference to this exemption, thereby presumably imposing EI controls on such equipment.

The purpose of the interim regulations was to transfer jurisdiction over encryption items controlled under the U.S. Munitions List (except for equipment with military applications) to the Commerce Control List. Items transferred were previously subject to licensing requirements under the ITAR. The interim regulations were not intended to impose EI control and new licensing requirements on items that were already under Commerce jurisdiction and eligible for export under a General License. As shown above, the interim regulations would potentially impose EI control and new licensing requirements on certain banking equipment that was previously exempted from such licensing requirements.

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In light of the above, NCR respectfully requests that Commerce revise the Note to ECCN 5A002 so as to clarify that all equipment that was previously covered by that Note remains exempt from EI control under the new regulations.

Respectfully submitted,

A handwritten signature in cursive script that reads "Walter E. Spiegel".

Walter E. Spiegel